

MINUTES  
**WARRICK COUNTY AREA PLAN COMMISSION**  
Regular meeting held in Commissioners Meeting Room,  
Third Floor, Historic Court House,  
Boonville, IN  
Monday, January 11, 2016, 6:00 PM

**PLEDGE OF ALLEGIANCE:** A moment of silence was held followed by the Pledge of Allegiance.

**MEMBERS PRESENT:** Guy Gentry, Bill Byers, Doris Horn, Amanda Mosiman, Richard Reid, and Jeff Willis.

Also present were Morrie Doll, Attorney; Sherri Rector, Executive Director and Sheila Lacer, Assistant Director.

**MEMBERS ABSENT:** Brad Overton (arrived at 6:20 p.m.)

Roll call was taken and a quorum declared present.

Mrs. Rector welcomed Doris Horn to the Board as the new Municipal Representative. She said Jeff Valiant will be on the Board of Zoning Appeals.

**ELECTION OF OFFICERS:**

Mrs. Rector asked for nominations to elect a President of the Warrick County Area Plan Commission to serve during 2016.

Amanda Mosiman made a motion to nominate Guy Gentry for President. The motion was seconded by Jeff Willis.

Mrs. Rector asked if there were any other nominations. Being none Richard Reid voted to close the nomination and elect Guy Gentry by acclamation. Amanda Mosiman seconded and the motion unanimously carried.

The President asked for nominations to elect a Vice-President of the Warrick County Area Plan Commission to serve during 2016.

Amanda Mosiman made a motion to nominate Jeff Willis for Vice President. The motion was seconded by Bill Byers.

The President asked for any other nominations. Being none Bill Byers voted to close the nomination and elect Jeff Willis by acclamation. Amanda Mosiman seconded the motion and it carried unanimously.

## **ADOPTION OF RULES AND REGULATIONS:**

Mrs. Rector said if they remember a few years ago they had limitations on the amount of time the applicant could speak, the remonstrators could speak and then rebuttal but when Attorney Doll became the attorney he didn't agree with setting limits without everyone having time to speak. She said there was an article in the Sunday paper with a recommendation by the Attorney for the Indiana Cities and Towns for any Board or Commission to have limitations ~ that each person could speak but for a certain amount of time and then everyone can get through speaking and they can get through a meeting. She said she recommends they think about this and bring it back up next month. She said perhaps she could come up with something and speak with Attorney Doll and come up with some suggestions or they can just leave it the same.

Guy Gentry said it hasn't been a big issue but there are times the room gets full and what he thinks it would do is eliminate a lot of repetitiveness that occurs. He said he thinks they should give people a fair amount of time to speak and they tell them not to repeat each other's statements but that doesn't always pan out. He said if they limit the amount of time each person speaks that might keep them from that but then how much time ~ 2 minutes, 3 minutes?

Amanda Mosiman asked if there is a way at the beginning of a meeting to suspend or adapt the Rules in place only when they need them.

Aaron Doll said they could use something like a "reasonable amount of time" to speak. He said they don't actually define a limit but then when people begin to ramble or go on too long you could ask them to cut it off or shorten their comments.

Jeff Willis said in a meeting a few weeks ago there was a woman who talked for over 20 minutes about kids and neighbors in the street. He said she had some good points but she repeated them about forty times.

Amanda Mosiman said if people know there are limits they might come in more prepared.

Jeff Willis said he doesn't want to give them a long time but he thinks 2 minutes is too short; he is more favorable to five minutes because it would give everyone plenty of time to speak.

Guy Gentry said they can always amend the Rules of Procedure. He said they can go ahead and adopt them tonight and amend them later.

Mrs. Rector said having a time limit gets the President out of the situation of deciding how long someone can speak.

Jeff Willis made a motion to keep the 2015 Rules of Procedure until the February meeting. The motion was seconded by Amanda Mosiman and unanimously carried.

## **APPOINTMENT TO THE BOARD OF ZONING APPEALS:**

Mrs. Rector said the first one is Municipal Representative Appointment and the only one that qualifies is Doris Horn.

Amanda Mosiman made a motion to accept Doris Horn as the Municipal Representative. The motion was seconded by Jeff Willis and unanimously carried.

Mrs. Rector stated that they need to choose a County Representative Appointment which could be Bill Byers or Jeff Willis.

Bill Byers made a motion to appoint Jeff Willis as the County Representative. The motion was seconded by Amanda Mosiman and unanimously carried.

#### **APPOINTMENT TO PLAT REVIEW COMMITTEE:**

Mrs. Rector said that normally it is Guy Gentry. Jeff Willis made a motion to appoint Guy Gentry to the plat review committee. The motion was seconded by Bill Byers and unanimously carried.

#### **FEE SCHEDULE:**

Mrs. Rector said there are times she thinks they could change the fees but it doesn't matter because all of our money goes into County General and the office operating budget never changes. Mrs. Rector said we charge a flat \$100 fee for a commercial permit and Vanderburgh County charges per square foot. She said a permit was issued last week for a building and the cost would have been over \$4,000 for the permit. She said their Council is using some of the funds to do projects for the office. She said she is hesitant on raising fees.

Amanda Mosiman said since it goes in the General Fund it would probably be prudent to talk the Council before raising fees.

Mrs. Rector agreed and said perhaps if they wanted the part time person to become full time maybe they could raise fees to supplement that but she doesn't see any reason to raise fees right now.

Jeff Willis asked if the fees they take in cover the operating cost of the office.

Mrs. Rector said she operates the office on \$10,000. She said that doesn't include salaries. She said they brought in over \$60,000 in 2015.

Amanda Mosiman made a motion to approve the fee schedule. The motion was seconded by Jeff Willis and unanimously carried.

#### **ANNUAL REPORT:**

Mrs. Rector said she emailed the report to everyone last week. She said subdivisions are coming up and creating some more residential lots.

Bill Byers made a motion to approve the annual report. The motion was seconded by Jeff Willis and unanimously carried.

**MINUTES:** Upon a motion by Jeff Willis and seconded by Bill Byers, the Minutes of the last regular meeting held December 14, 2015, were approved as circulated.

The President explained the Rules of Procedure and stated any decision by this Board will be forwarded to the County Commissioners for final action on February 8, 2016 at 4:00 p.m. in this room.

### **REZONING PETITIONS:**

**PC-R-16-01 – PETITION OF RICHARD & NICOLE TAYLOR. OWNER RICHARD & NICOLE TAYLOR** to rezone .8185 acres located on the E side of Grimm Rd approximately 0 feet NE of the intersection formed by Grimm Rd and SR 662, Ohio Twp. being part lot 1 and part lot 5 Crestview Terrace Sub from “C-1” Neighborhood Commercial to “C-3” Highway Commercial with a Use and Development Commitment. *Complete legal on file. Advertised in the Standard December 31, 2015.*

Richard and Nicole Taylor were present.

The President called for a staff report.

Mrs. Rector stated they have submitted all the return receipts from certified mail from all adjacent property owners except for Ann Hodgkins. She said they have submitted the white pay receipt and it was mailed to address on file in Auditor’s office and within the 21 day limit. She explained they will have to submit either the unopened returned envelope or the green receipt when it comes them. She stated there is no minimum lot size for commercial zoning. She stated the Comprehensive Plan projects the area to be moderate to high density residential. She added the property is currently vacant and zoned “C-1” Neighborhood Commercial. Mrs. Rector said this is the original zoning for Lots 1, 5 & 6 in Crestview Subdivision. She added the property to the north is zoned “R-1B” being part of Crestview Terrace; to the east is lot 6 in Crestview Terrace (owned by the Taylor’s) and the lot beyond that is zoned “R-1B” (also owned by the Taylor’s and being their residence.) She said to the west across Grimm Road is zoned “R-1D” being Timmel’s Subdivision and to the south across SR 662 is zoned “R-2” – Village at Riverwalk. Mrs. Rector said the Taylor’s purchased the three commercial lots adjacent to their residence. She said they have submitted a Use and Development Commitment limiting the use to an open air lot for the community to rent spots to sell their own auto/motorized vehicle, recreational vehicle, or trailer. Firewood sales ready for use. Produce stand. She said per the Comprehensive Zoning Ordinance, open air sales of new or used automobiles, trailers, or trucks, located on land adjacent (either abutting or separated by an alley) to an “R” (Residential) district, shall be separated from the land in the “R” district by a solid wall or opaque fence at least six (6)

feet in height. She said this means they will need to put up a fence along the northern back of lots 1 & 5. Mrs. Rector said there is no flood plain on the property and there is an existing entrance on lot 1 off SR 662. She said they will need approval from INDOT to use that entrance for the proposed sales. She added Lot 1 also fronts on Grimm Road and Lot 5 fronts only on SR 662. She said the stated use is open air sale of vehicles etc. and that is allowed in the proposed zoning.

Mr. Taylor said there was a home on the property that was destroyed in 2005 in the tornado. He said it sat vacant for a while before they purchased it. He said he maintained the property for the previous owners while they were trying to sell it. He said finally he and his wife decided to purchase it to try to make some commercial use since it was wasted space. He said they are all on septic systems there and the only thing right now that could potentially be built there now is another home similar in size that was there. He said that is assuming the current septic system there is adequate. He said he knows the previous owners had issues with the septic and so the chances the septic is viable is probably nil. He said they have less than the 2.5 acres required now for a septic and so that kind of renders this space not useless but it he doesn't think they can build a structure there and live in it. Mr. Taylor commented that when they were coming home from purchasing the property someone parked a car for sale on the property and he thought that might be an idea.

Brad Overton arrived at the meeting.

Mrs. Taylor said they also couldn't put a gas station or grocery or apartment that would require a bathroom because of the septic system and there is no viable way to provide for multiple restroom usage – even if the septic was good there is no way to put a multiple use restroom there. She said until city sewers come through the area they are kind of at a standstill which is why they have chosen the business adventure they have chosen.

Mr. Taylor said they have also put the limitations on it because “C-3” is kind of scary for the residents around and that is why they put the limitations so people won't be afraid there will be a gas station or something there. He said all they want to do is put some gravel down and make some designated parking spots so it will be nice and orderly. He said of course the property will become profitable for them over the long term and maybe give them a return on their investment.

Guy Gentry asked if the entrance was off SR 662 or Grimm Road.

Mr. Taylor said it was off SR 662 and it was the entrance to the old house.

Amanda Mosiman clarified they owned the “C-1” lots and their house was next to that. She then asked Mrs. Rector why the lots were zoned “C-1”.

Mrs. Rector said it was done when they developed the subdivision and it was probably because the lots fronted on SR 662 and Grimm Road and they felt the lots should be commercial and the rest residential.

Mr. Taylor said there are several businesses up and down SR 662; it is a hot, growing spot. He said there is a flower shop, art gallery and a vet clinic. He said there is a horse stable down the road off Grimm Road zoned “C-3”. He said it is not like they are out of the realm – they are just trying to do this right. He said they don’t want to just start parking vehicles there and then get a fine or penalty. He said they want to get the proper permits and proper insurance.

Amanda Mosiman asked if the vehicles will be owned by them.

Mr. Taylor said they would rent out a space to an individual to sell their vehicle. He said they threw in the firewood and produce sales in case they couldn’t get the vehicle sales. He said they have never done anything like this before – there is a model of this on SR 66 and that is what they are modeling to do where they are. He said in the case that didn’t happen then he could sell some firewood there to try to get a return off the property.

Mrs. Taylor said they also thought if they put a garden out then the kids could sell vegetables they would be covered for that as well.

Amanda Mosiman said she wondered about that. She said she is the Agriculture Extension Agent for the County she wants them to know in regards to the produce stand, they need to work with the Health Department. She said they are fully allowed to sell their own produce on their own property as a road site stand but you can’t sell other people’s products. She said if they have any questions on how to expand that she can answer their questions.

Bill Byers said so this will be a business where people will park their own vehicles for sale.

Mrs. Taylor said yes and they will have to have their own insurance on their vehicles. She said they will have insurance on the property but not the automobiles.

Jeff Willis asked if the “C-1” zoning will remain in place and the only thing they can do in the “C-3” is what is on the Use and Development.

Mrs. Rector said they are asking for a “C-3” and limiting it to three things. She said it won’t revert to a lesser zoning. She said the three uses are all they can have. She said they are limiting the uses to those three things.

Mrs. Taylor said that is correct.

Richard Reid asked if they could have the “C-2” uses to which Mrs. Rector said no.

Jeff Willis said currently it is “C-1” and they will lose anything they could do in the “C-1” with this rezoning.

Mrs. Rector said she thinks basically what they are saying is any kind of business that goes there has to be a business that doesn’t require a restroom for now.

Mrs. Taylor asked about a “C-1” with a Variance.

Mrs. Rector said there is no Variance for zoning use but they would have a “C-3” and if at a future date they want to come back and amend their petition they can or rezone it back to “C-1”.

Ascertaining there were no other questions from the Board the President called for remonstrators.

Charles and Charlotte Shopmeyer came to the podium.

Mrs. Shopmeyer said they live directly to the north and east of the property. She said they own three lots and their home sits up on a hill and they are kitty corner of it. She said Mr. Taylor came to them after he bought the property and told them he was thinking of doing something like have cars there and a neighbor down the street parked his car there and at that time they didn't know anything about commercial zoning and the property had sat there for a long time because the tornado wiped out the home and the people decided to move off. She said they were glad he bought the property. She said they didn't know much until they began to research and there was an article in the paper a few weeks ago about another Warrick County case where a person in the neighborhood of Lics wanted a used car lot and the people were voicing their concerns. She said as she read that they thought this sounded similar to the Taylor's property – a “C-1” to a “C-3”. She said to her the other property seemed much more business like because it fronted on SR 66. She said what she wants to share here is this is moderate to high density residential and she would say this is a 360 because there are just homes, families and children in this neighborhood. She said her concern after reading that article is the used cars or trailers being sold – that is just out in the open 24/7 it isn't a product that goes away – it is outside and viable for people to come and visit at any hour. She said with their homes there she feels this would put their neighborhood at risk because she won't know who is supposed to be out there. She said in their neighborhood they look out for each other and she is concerned people will be coming in and out and meeting others there and she doesn't know who those people are and she feels it isn't going to be supervised. She said it isn't personal against the Taylors or them wanting to have a viable use of the land but it feels like they are putting the neighborhood at risk. She said the children are outside playing and she doesn't know how they will address that. She said the other thing the article mentioned was “spot rezoning”. She said there are some businesses along SR 662 but it still is a moderate to high density residential area. She said she doesn't know what “spot rezoning” is but this sounds like what is going on here. She asked what is the best thing for this neighborhood. She said you could sell produce from your own yard, you don't need a “C-3” business and while the Taylors live there this will be a limited use but you never know when city sewers come in then that opens up the door to who knows what. Mrs. Shopmeyer said they have five kids and as a resident there she has concerns about the kids and families there. She again stated her property is right behind this and she is just thinking about people at all hours being there and she won't know who to be concerned about because it is rented space.

Jeff Willis asked if there will need to be a fence in the back of the subject property.

Mrs. Rector said yes, it will have to be a six foot tall, solid or opaque fence along the back of the property that abuts the residential zoning.

Jeff Willis said they are also giving up all the “C-1” uses that they could do now with the Use and Development. He said there are a lot of things that could go right now.

Mrs. Rector said that is true and right now if a sewer was available they could build a convenience store with a gas station on those lots – it couldn’t be stopped because it is zoned “C-1” already. She said she isn’t trying to sway anyone but she wants them to understand because if this petition is denied it doesn’t mean that commercial businesses can’t go there next week. She said office buildings, restaurants, retail furniture store, grocery store and all kinds of things can go there now if they had the ability for septic or sewer. She said sometimes you have to look at what could be.

Mrs. Shopmeyer said they didn’t know and these are concerns they had as residents and figured this is the place to share them and hopefully the Board would take them into consideration.

Guy Gentry said the article she referred to was regarding another rezoning that actually didn’t have access off SR 66, it only had access from the residential subdivision street. He said it would be like this access would be on Crestview Place instead of SR 662.

Mr. Shopmeyer said they bought the extra lot behind this so there couldn’t be access onto Crestview Place.

Amanda Mosiman said if she remembers correctly the other petitioner was not willing to give a Use and Development Commitment as well. She said if this rezoning gets approved this is the only thing that can go there. She said if the Taylors move out, the Use and Development stays with the land and so these three things are all that can go there.

Mrs. Shopmeyer asked if it can be amended.

Mrs. Rector said that would be a new petition and public hearing.

Amanda Mosiman said and new notices will be sent out so nothing will be done without their knowledge.

Ascertaining there were no other remonstrators, the President called for rebuttal.

Mrs. Taylor said they also have five children at home ranging from 2-14 years old and they are very family minded. She said she is a stay at home mom but she used to work for the Federal Court System and she knows what kind of things and people are out there. She said the property the Shopmeyers’ purchased lines up with the second parcel that is farther away from Grimm Road and had they not purchased that property then it wouldn’t touch them and the business they are trying to create wouldn’t change their homesite. She said in addition to that, in her opinion it won’t be any different than having your home for sale and not knowing the people stopping by to take down the information. She said they will have names and phone numbers of the people who have their cars parked there; obviously they won’t know everyone who stops by but the



likelihood of people stopping by at night – she isn't too sure about that but said they are going to put lights up because visibility creates a little more honesty and a little more aptitude for people wanting to put their things there but the lights won't be infringing on anyone's property or creating light so they can't sleep.

Mr. Taylor said right now the back part of this property is heavily wooded and their kids ride their four-wheelers back there. He said there is a hill with a drop off and woods. He said he guesses it was always a hard spot to mow and it was allowed to grow up. He said the storm knocked some of the trees over and they have been let go. He said they have no intention of cleaning that up and their kids play in the woods and it actually creates a visibility block for the neighbors behind them. He said they won't be able to see what it going on and it won't be visible unless you are on the highway.

Brad Overton apologized for being tardy to the meeting. He asked how these lots got zoned "C-1" to begin with.

Mrs. Rector said thinks the developer of the subdivision meant for that corner to be commercial. She said it was done when the subdivision was developed.

Brad Overton said it is too bad they can't put a residence there.

Guy Gentry said a residence was there and was destroyed; the problem is the failing septic system and no sewers.

Mrs. Rector said they are just trying to figure out something to do with the property that doesn't use bathrooms.

Brad Overton said so actually with the Use and Development Commitment is actually much more restrictive than what is there now.

Mr. Taylor said they did that intentionally. He said that was to ease the minds of the residents in the area. He said they are trying to limit it down.

Brad Overton said he isn't a fan of dropping a zoning in different places because usually when they do that they open it up to lots of different things; however, not in this instance, they are restricting it.

Mrs. Taylor said they own a little under 2 acres with all the parcels they own and so it is really a large piece of property for where they are. She said so this will still be a ways from their home and the house that is actually across the street from it is actually way up high on a hill and so really foot traffic or traffic from vehicles really isn't going to be an issue.

Mr. Taylor said now if someone wanted to buy all three of the parcels as a "C-1" that would be a pretty good chunk of property; not that they have any plans on selling it but if someone offers him big money he won't say he wouldn't sell it.

Brad Overton asked where the fence will go.

Mrs. Rector said it will have to go on the back side of the property against the residential zoning.

Mrs. Taylor said the person living there already has a six foot privacy fence there.

Brad Overton asked if there is an amount of vehicles restricted there.

Mr. Taylor said they own four parcels and the one on the very corner is the one they primarily will use. He said it is the farthest away from their house and from the neighborhood. He said granted they did expand this rezoning to the next lot because they don't want to have to do this again in the future but they are trying to keep everything on the corner. He said he doesn't anticipate there being very many vehicles parked there. He said they keep count on the "model" on SR 66. He said he thinks they also have the storage units there and he isn't trying to be a corporate business and he doesn't want to be an operation that big, they just want to let the property pay for itself. He said in four or five years when he retires from the military hopefully this will be a little bit of revenue coming in and the property has paid for itself.

Brad Overton asked if they would be willing to restrict the amount of cars so they won't be cramming in say 75 cars.

Mr. Taylor said he with the amount of space they have he would say no more than ten vehicles at any time. He said if he had a five row front and five in the back it would give room to drive between the rows. He said he doesn't want anyone driving through his yard.

Brad Overton asked if they plan on keeping it grass.

Mr. Taylor said where the cars will be parked will be gravel. He said there is an existing concrete driveway for the house. He explained where the crawl space for the house was had been full of water and mosquito invested and the first thing he did when he bought the property was to fill that backfilled.

Brad Overton said the number of cars is his biggest concern.

Mrs. Rector asked Attorney Doll if they could ask to amend the Use and Development Commitment and limit "not to exceed ten vehicles at any one time".

Attorney Doll said if they so choose to do so they can ask to amend it and then the Board needs to vote on that first.

Mrs. Taylor said she thinks that gives people enough room to get in and out and feels that is appropriate. She then asked to amend the Use and Development to limit not more than ten vehicles per any given time.

Brad Overton made a motion to allow the amendment to the Use and Development Commitment. Amanda Mosiman seconded the motion.

Jeff Willis questioned limiting it to ten vehicles. He said they could fit more than that there.

Doris Horn asked if they are going to regulate the type of vehicles – nothing trashy.

Mr. Taylor said they will have to be licensed and operable.

Mrs. Taylor said someone wanting to sell a trashy car or motor home will more than likely not be willing to pay to park it.

Discussion ensued over the size of the lots and topography of the lots.

Mr. Taylor said ten seems like a good number to him now and they could safely put more cars there but they are conscious of the neighborhood and they don't want to create chaos there and so he is going to stick to the ten vehicles.

The President called for a motion on the amendment. The motion unanimously carried.

Ascertaining there were no other questions from the Board and being no other remonstrators, the President called for a motion on the rezoning.

Jeff Willis made a motion to recommend approval to the County Commissioners of PC-R-16-01 from "C-1" Neighborhood Commercial to "C-3" Highway Commercial with the amended Use and Development Commitment. The motion was seconded by Bill Byers. Richard Reid abstained and all other members voted for the motion.

The President stated this petition will be forwarded to the County Commissioners with a recommendation of approval, as amended, on February 8, 2016, at 4:00 p.m. in this room.

Mrs. Rector said the office will contact them to amend the Use and Development.

### **OTHER BUSINESS:**

**Formal Complaint** – Pennymac Corp – 7266 Edgedale Dr. Newburgh, IN – Alleged public nuisance. Cease and desist letter sent December 17, 2015.

Mrs. Rector said a formal complaint was filed by Chad Bennett, Ohio Twp. Trustee, stating they "followed all protocol for the 7266 Edgedale Dr. property, pursuant to IN Code 15-16-8-1 et seq. Ohio Township then requested the mowing service to take care of the property. Mowing service was able to mow the front yard but unable to cut the backyard due to an abundance of trash." She said the Warrick County Zoning Inspector visited the site and reported "the house is empty, the backyard is full of trash. The attic has cats living in it. There is a pool out back without a cover on it." She said a letter was sent to the owner on December 17, 2015 informing them of

the violation and that they needed to contact the office within 10 days of the receipt of the letter. (Letter was received December 21, 2015) Mrs. Rector said the letter further stated if the situation was not remedied or they hadn't contacted the office this would be on the agenda. She said we have had no communication with the owner and the Building Inspector went to the property on January 4, 2016 and reported there is no change on the property. She said the house is in foreclosure by a bank in California. Mrs. Rector said normally they look at the pictures to see if they find it in violation and if they do then normally the next step is to turn it over to the attorney for him to write a letter. She said it is or was a nice house.

Doris Horn said it is a health hazard to the neighbors.

Mrs. Rector said a lot of times the banks hire local companies to clean up the property and they don't do it and no one is local to check it. She said in the past they have had the attorney send a letter to get their attention.

Brad Overton made a motion to state they are in violation and to send a letter.

Mrs. Rector said to have it cleaned up by what date, April or May?

Guy Gentry asked what the violation is.

Mrs. Rector said it isn't a junk salvage yard, she thinks it is a bunch of trash people left in the yard when they abandoned the house.

Guy Gentry said and they have argued before as to whether this is for the Plan Commission to deal with.

Mrs. Rector said she doesn't feel like it is. She said there are houses all over the county that are worse than this.

Doris Horn said she wouldn't want this next to her house.

Guy Gentry said it has nothing to do with zoning and cleaning up the county isn't the function of their job.

Brad Overton said it really isn't a junk/salvage yard but his question is where this does fall. He said this is similar to the lady behind the dump.

Guy Gentry said it is.

Brad Overton said so why did they think that one was a violation.

Guy Gentry said they really didn't they just handled it because that is what they have been doing. He said at some point....

Doris Horn said if the Plan Commission isn't going to do anything then who do people go to.

Guy Gentry said the County Council needs to fund the County Commissioners to come up with an ordinance.

Doris Horn said so in other words neighborhoods go down until the County Council or the Commissioners do something.

Guy Gentry said the Commissioners have to re-instate their ordinance that never got funded.

Brad Overton said the individual property owner can take action against that.

Mrs. Rector said they could file a civil action.

Brad Overton asked where would that fall.

Mrs. Rector said it would probably be a public nuisance.

Brad Overton said so then maybe they should start pushing some of this back on to the neighbor because it is really ...

Mrs. Rector said it is a private matter not a zoning issue.

Brad Overton said yes...

Mrs. Rector said she feels they need to have an Executive Session or a Special Meeting sometime to decide what we are going to do with these things. She said we just keep going around in circles.

Brad Overton said it isn't like there are four or five junk cars sitting there like some of the other properties.

Amanda Mosiman stated in light of not having any set procedures to deal with this she doesn't think it is too far out of their realm to do what we normally have done by getting a letter to the bank and if we get no response or a negative response then we will just communicate back to them that it is no longer in their hands and they will have to file a civil suit.

Guy Gentry asked if she is making that in the form of a motion to have the attorney write a letter.

Amanda Mosiman said that is correct.

Doris Horn seconded the motion.

Discussion ensued over what time limit. It was decided that the deadline would be April 1<sup>st</sup>. The motion unanimously carried.

## **ATTORNEY BUSINESS:**

None.

## **EXECUTIVE DIRECTOR BUSINESS:**

### **Change of use permits**

Mrs. Rector said they have never issued permits for the change of use of a building. She said it is in Indiana Code for them to be able to do so. She said for instance there is a little building down by the Newburgh Walmart that currently has a nail salon, a driving school and other things located in it. She said when they were given the permit for the building it was for a retail store and that is one parking space per every 400 square feet. She said and now there are restaurants in there which the parking is 1 space for every 200 square feet. She said they don't know sometimes when they move in a new business and it may not meet the zoning.

Mrs. Rector said in Vanderburgh County they have to come in and obtain a change of use permit where they can check the zoning and parking and all the requirements of the Zoning Ordinance before they lease out to a new use in the building. She said then once that is permitted they know they have to go to the Building Department for the remodeling permit. She said and if a restaurant is going in they can be sent on to the Health Department. She said right now they have no knowledge when business gets moved in and out of a building. She said the only way they find out right now is when they come in for a sign permit. She said she spoke to Dennis Lockhart, the Building Inspector and he really thinks it is a good idea.

Amanda Mosiman said it could keep them out of trouble.

Mrs. Rector said an Improvement Location Permit for a commercial building is \$100. She said she didn't care if the change of use permit cost \$30 or \$25, she doesn't care about the money it is just verifying that it is meeting the regulations.

Guy Gentry asked if that would take another ordinance.

Mrs. Rector said they would have to incorporate it into the Zoning Ordinance and change the fee schedule. She said she wanted to know how they felt about it before she started.

Jeff Willis said he thinks it is a good idea but how will they let people know because they have never done it.

Mrs. Rector said they would bring it up during commercial site reviews.

Jeff Willis asked if that would apply to the self-storage units since they were rented out to different people. He said lawn mowing companies rent the units to store their equipment – would that require a permit.

Mrs. Rector said she is talking about a change of use. She said the self-storage use isn't changing, just the renters. She is saying if it went from self-storage to a restaurant then it would need a change of use.

Jeff Willis said so they would let new buildings know at site review but how will they let the existing landlords know.

Amanda Mosiman said the new ordinance will be published in the paper.

Jeff Willis said but who reads the paper. He said the point is they will have to police it.

Amanda Mosiman said they will have a backstop if they are violating because they can say you didn't come to us for the change of use permit.

Jeff Willis said they already have that now if someone reports that Pizza Hut is in a building and it isn't zoned for that and so they are out of zoning and so they have the same recourse.

Amanda Mosiman said they may not be out of the zoning but may be the use.

Doris Horn said what about when they come in to change out their signs.

Mrs. Rector said yes they would know if someone was moving in and out then. She said she is only talking about commercial uses. She said she thinks about this all the time because right now they have no control over what is moving in and out and knowing whether it meets the zoning or not. She said someone could rent one of those little spaces and set cars out front for sell in a "C-1" zoning.

Jeff Willis said but then someone would report it and they could fix it. He said if they aren't going to police it because if it isn't policed it won't be effective. He said it will be effective to those who know the law but most won't know.

Doris Horn said the county has grown a lot over the last ten years and before everyone knew what was coming in but not now.

Jeff Willis questioned how long they will have to wait for a change of use permit. He said he thinks it is a good idea but he thinks there could be draw backs as well.

Mrs. Rector said it would all be done in one day. She said it won't take 30 minutes.

Bill Byers said most of the businesses – strip centers - are managed by professional companies.

Doris Horn said so he is saying they should contact the corporation that owns the buildings. She said then they may be in the same boat as this house that is owned by a bank in California.

Bill Byers said it is the professional management companies they would have to notify. He said they are local.

Mrs. Rector said right now they only know when a business moves in or out is when the sign company comes in to switch out the sign. She asked if they could deny a permit for a sign for a business that hasn't been approved if doesn't fit the zoning? She said where do they go with that.

Attorney Doll said so he understands this will be primarily administrative or will it come before the Board.

Mrs. Rector said it will be handled in the office.

Jeff Willis asked if we could ask when the building is being constructed – are you going to allow restaurants in here and if you are you will need a lot more parking spots and then limit it on the approval side of it. He said and then some strip malls couldn't have restaurants in them.

Mrs. Rector said no because they don't have the policing.

Guy Gentry said and most of the time they don't know what is going to go in there.

Discussion ensued over the amount of parking and Mrs. Rector said they would pull out the original permit for the building to count the number of spaces.

Mrs. Rector said that one strip mall across from Beaver Creek apartments has something going in and out almost weekly. She said she has been thinking about this and when someone comes in to get a sign permit right now there isn't anything that says they can deny a sign permit for a business that isn't allowed in a zoning. She said she is trying to think of a simple solution and a low cost.



Jeff Willis asked how they will police someone who didn't get the change of use permit.

Mrs. Rector said then they wouldn't get their sign permit.

Amanda Mosiman made a motion to have Mrs. Rector draft an ordinance for a change of use permit and have it on next month's agenda for discussion. The motion was seconded by Doris Horn and unanimously carried.

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Mrs. Rector said she has been contacted by the attorney representing the people on Ruffian Lane who wanted a car lot. She said they are trying to come up with some uses on the property and they sent an email inquiring if a restaurant with a full bar would be allowed. She said a "C-1" zoning allows for a restaurant, period. Mrs. Rector said the definition of "restaurant" it is a place that prepares and sells food. She said there is no mention of alcohol until you get into the "C-2" zoning. She said you can have a bar, tavern and nightclub. She said she sent an email to Morrie and Guy and Aaron over the weekend and asked what they thought. She said Aaron Doll can tell them as well, but it is their opinion that it will take at least a "C-2" zoning with a restaurant with a full bar.

Aaron Doll said he is in agreement.

Jeff Willis asked if a restaurant could just serve alcohol.

Attorney Doll said for them to be able to serve alcohol they would have to be in an "C-2". He said Vanderburgh County is the same. He said their ordinance says taverns, bars and restaurants serving alcohol requires a "C-2". He said what is confusing about our ordinance is in a "C-1" our ordinance currently allows package liquor stores.

Jeff Willis said there is alcohol permitted in a "C-1" it just isn't consumed there.

Attorney Doll said but in Vanderburgh County a package liquor store is in a "C-2". He said he needs to speak with his dad but he feels it will be their recommendation for clarity they move the package liquor to a "C-2" and specifically say, if the Board so chooses, to say under "C-1" restaurant that doesn't serve alcohol and maybe under "C-2" say restaurant that serves alcohol, bars, taverns, nightclubs, package liquor stores. He said that will make it a little clearer.

Jeff Willis asked if there are any liquor stores currently zoned "C-1" in the County.

Mrs. Rector said you can't even have a package liquor store in an unincorporated area, they have to be in a town and so there aren't many places they need to worry about it. She said it would only affect Tennyson, Elberfeld or Lynnville but they do need to change this.

Mrs. Rector asked if the Board agrees that an ordinance needs to be prepared to for restaurants that serves alcohol to be in a "C-2" and move the package liquor to a "C-2". She said she also needs the Board to make a motion that the "C-1" will not allow a restaurant serving alcohol so she can answer the question. She said she told her that she didn't feel that it would go but she would bring the question to the Board.

Amanda Mosiman made a motion to inform the attorney the restaurant with alcohol requires a "C-2" zoning. The motion was seconded by Bill Byers. Jeff Willis voted against the motion and all other members voted for the motion.

Mrs. Rector said she will have the ordinances for them next month to review.

Being no other business the meeting adjourned at 7:15 p.m.

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Guy Gentry, President

ATTEST:

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Sherri Rector, Executive Director